

REPORT
on the Free Movement of Workers
in Latvia in 2010-2011

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Introduction

Economic situation, demography and migration

There is still economic crisis in Latvia although with a view towards slow process of recovery. The rate of unemployment decreases. Statistics demonstrate that at the beginning of 2010 there were 19.7 % of registered jobseekers and now this number has dropped to 13%.¹ However such a fast decrease of unemployment may be affected by other factors not connected with recovery of economy. Firstly, the data regards only registered unemployment. It means that only those persons 'appear' in data which have registered at the State Employment Agency. Usually persons lose any interest in official registration when they lose the right to unemployment allowance which is provided for six to nine months only. Secondly, most probably many of unemployed persons have left Latvia for the purposes of employment in Western Europe. This year over 5000 persons have declared their status of emigrated person (from Latvia). Also preliminary data of Population Census carried out at the beginning of 2011 shows that instead of 2,3 million inhabitants (as it was presumed before) there are only 1,9 million inhabitants in Latvia currently. As emphasized by sociologists it simply proves and affirms their presumption that over 400 000 persons have left Latvia for employment and residence in Western Europe. Unfortunately more and more persons leave Latvia together with their families. It means that they do not have an intention to return back in the nearest future. The birth rate is very low. On 2010 only 19 000² children were born while deceased persons were around 29 000.³ The birth rate was affected by economic crisis and instability in Latvia. In previous years there were around 22 000 -24 000 new born children each year.

Experts warn that with the growth of economy Latvia will suffer from shortage of workforce and thus this is the last moment to think on demographic and immigration policy. While politicians start working on measures to improve birth rate there were no steps taken on future immigration policy. It is on account of fact that Latvian society (electorate) is very negative towards giving 'green light' to any kind of immigration to any group of persons. Such resistance is Latvian painful heritage from Soviet occupation when many Latvian were either killed or sent to Siberia while mass immigration from other parts of Soviet Union took a place. Around 40% of population of Latvia forms persons who have immigrated from Soviet Union and their descendants. Only 56% of population is those living in Latvia for centuries. All these facts create serious obstacles for elaboration of long term policy of economy which cannot be possible without immigration of workforce from the third countries.

1 Central Statistical Bureau of Latvia, <http://www.csb.gov.lv> (accessed on 12 June 2011).

2 In previous years there were around 22 000 -24 000 new born children each year.

3 Central Statistical Bureau of Latvia, <http://data.csb.gov.lv/Dialog/Saveshow.asp> (accessed on 12 June 2011).

Legislative changes

There have been changes on 2011 in Latvian immigration law concerning rights to free movement under the EU law. The old Cabinet of Ministers Regulation No.586⁴ was replaced by the new Regulation No.243⁵ which more correctly implements requirements of Directive 2004/38. Also the Immigration Law was amended by Article 2¹ which now clearly provides which norms of the Immigration Law are applicable to a Union citizen and his/her family members.⁶ Previously the applicability of the Immigration Law with regard to Unions citizens and their family members was unclear because in substance their rights were regulated by the Regulation but at the same time the Regulation was subordinated to the Immigration Law.

In other fields of law concerning free movement rights there were no considerable changes during 2010 and 2011.

Migrant workers in Latvia

Statistics show that there were 3187 workers – Union citizens with valid registration certificates at the beginning on 2011 in Latvia. At the same time there were 1924 workers – third country nationals. However on 2010 there were only 288 workers – Union citizens who have required registration certificate for a first time, in comparison on 2008 – there were 1000 such requests.⁷ Nevertheless immigration data proves improvement of economic situation in Latvia.

4 OG No.114, 20 July 2006, not in force since 14 April 2011.

5 OG No.58, 13 April 2011

6 Respective amendments, OG No.93, 15 June 2011

7 Data provided by OCMA on 12 April 2011, not published

Chapter I: The worker: Entry, residence, departure and remedies

There have been changes in legal regulation on entry, residency and departure of Union citizens, EEA citizens and citizens of Swiss Confederation (further - Union citizens) and their family members under Latvian law. Now Directive 2004/38 is implemented more correctly.

As described in previous reports mentioned issues are formally regulated by the Immigration Law⁸ but in substance by the Regulation Cabinet of Ministers.⁹ This was due to the fact that Articles 69 and 70 of the Immigration Law entrust to the Cabinet of Ministers adoption relevant regulations on entry, residency and departure of Union citizens and their family members. On the basis of this Cabinet of Ministers adopted Regulations No.586 regulating in detail matters relating to entry, residency and departure of the EU citizens and their family members. Such legislative form of implementation of directives by regulations (secondary national legislation) based on law (primary national legislation), but not directly by law may lead to ineffective or incorrect application of the EU law. There could have been the situations where provisions of regulations implementing directive collide with the law on basis of which respective regulation has been adopted, but the law itself does not clearly identifies on how far it is applicable together with the said regulations. Immigration Law did which norms are applicable to Union citizens and their family members. It could have led to the situation where administrative institution or national court in case of the collision of the provisions of the Regulation No.586 and the Immigration Law apply norms of the law on the grounds it is of higher level, omitting the fact that the Regulation contain norms of the EU law.

Now aforementioned situation is partially corrected. On 26 May 2011 the Parliament adopted amendments to the Immigration Law.¹⁰ Now Article 2¹ of the amended Immigration Law explicitly provides which norms of the Immigration Law are applicable to Union citizens and their family members in addition to special Regulations regulating their entry and residence in Latvia in detail. Although system of implementation of the EU directive, in particular, Directive 2004/38, is not fully correct on the basis of reasons stated above, nevertheless now it is at least clear on how far the Immigration Law is applicable to the Union citizens and their family members. On the other hand it is already obvious that norms of the Immigration Law referred to by Article 2¹ of the said law may be applicable in certain situations to a family member of a Union citizen who is third country national but in no case with regard to a Union citizen. So in substance amendments to the Immigration Law by Article 2¹ does not solve the problem with the correct implementation of the Directive 2004/38 from the point of view of hierarchy of norms in Latvian legal system.

Besides to amendments to the Immigration Law clarifies its applicability with regard to Unions citizens and their family members. On 29 March 2011 the Cabinet of Ministers

8 Official Gazette (further OG) No.169, 20 November 2002 as amended until 2011 OG No.93, 15 June 2011. The Immigration Law in English is available at home page of the State Language Centre, www.vvc.gov.lv, with amendments until 2010, OG No.74, 12 May 2010.

9 Cabinet of Ministers Regulations No.586 'On the procedure according to which EU citizens, EEA citizens and citizens of Swiss Confederation and their family members enter and reside in the Republic of Latvia', OG No.114, 20 July 2006, not in force since 14 April 2011.

10 OG No.93, 15 June 2011.

adopted new Regulation No.243 'Procedure according to which EU citizens, EEA citizens and citizens of Swiss Confederation and their family members enter and reside in the Republic of Latvia'¹¹ (further Regulation No.243) replacing old Regulation No.586. Old Regulation was adopted on 2006 and had never been amended since then irrespective of the fact it had many shortcomings in implementation of substantive provisions of Directive 2004/38. New Regulation No.243 implements Directive 2004/38 more correctly.

1. TRANSPOSITION OF PROVISIONS SPECIFIC FOR WORKERS

Article 7(1)(a)

Point 26 of the Regulation No.243 provides that a Union citizen has a right to remain in a territory of Latvia longer than three months if he/she has registered in Office of Citizenship and Migration Affairs (further – OCMA) and obtained registration certificate. Point 28 of the Regulation No.243 provides that a Union citizen has a right to obtain registration certificate if he/she complies with at least one of following criteria provided in Points 28.1 to 28.7.¹² Consequently the Regulation No.243 implements Article 7(1)(a) correctly unlike old Regulation No.586 which required to obtain registration certificate after 90 days of residence in Latvia what was in average shorter period than three months.

Article 7(3)(a-d)

Point 30 of Regulation No.234 provides that a Union Citizen retains the status of an employee or self-employed if he/she:

- 30.1 .is temporary unable to work due to an illness or accident;
- 30.2. is registered as unemployed or as a jobseeker at the State Employment Agency and has been before such registration employed for longer than a year and unemployment has occurred due to circumstances not dependent upon him/her;
- 30.3. is registered as unemployed or as a jobseeker at the State Employment Agency within first 12 months after commencement of employment. In such a case he/she retains employment status up to 6 months;
- 30.4. has started to obtain a professional education connected with previous professional activities at an establishment of professional education registered at the register of the Educational Establishments. Requirement on connection of education with pervious employment is inapplicable if unemployment has occurred due to circumstances not dependent upon him/her.

Provisions of Article 7(3)(a), (b) and (d) of the Directive 2004/38 are implemented by Points 30.1, 30.2 and 30.4 by the Regulation No.243 word implementing measures of Articles 7(3)(c) of the Directive are more favourable than required by the EU law. Point 30.3 of the

11 OG No.58, 13 April 2011; at the home page of OCMA, however new Regulations are not available in English, only old Regulations No.568 are available in English, <http://www.pmlp.gov.lv/en/pakalpojumi/registracija.html>

12 In particular, Point 28.1. a Union citizen has status of employed person in Latvia; Point 28.2. a Union citizen has status of self-employed person in Latvia; Point 28.3. a Union citizen is service provider of an employee of a person registered in the Union which is service provider in Latvia.

Regulations No.243 unlike Articles 7(3)(c) the Directive does not require unemployment to occur involuntary and does not requires completion of a fixed term contract.

Article 8(3)(a)

Point 29 of the Regulation No.243 provides that in order to obtain registration card a Union citizen must present a valid travel document and according to Point 29.1 submit application form (if registration card has not been required ever before) and according to Point 29.2 submit documents conforming his/her status according to Point 28. Point 28 (as described above) provides that a Union citizen has a right to obtain registration card if he/she corresponds to one of requirements listed under Point 28. Point 28.1 and 28.2 respectively provide that a Union citizen has a right to registration card if he/she is employed or self-employed in Latvia. It follows that Article 8(3)(a) is implemented correctly and that a Union citizen may prove his/her status of employed or self-employed in Latvia by any means. According to Latvian law an employee in Latvia must have employment contract in written form (Article 40 of the Labour Law)¹³ and a self-employed person must register at the State Revenue Office (which issues certificate of resident income tax payer), but for some professions self-employed must obtain special certificate from municipalities. Consequently Latvian law ensures possession of documents for an employee or self-employed proving their status under Point 28.1 and 28.2 of the Regulation No.243 (and Article 8(3)(a) of the Directive).

In previous reports there was described one practical obstacle. The problem was that there was uniform application form for the Union citizens and any third country nationals for acquisition of a registration card or residence permit. Such form required excessive personal data which may be not required with regard to a Union citizen because such data are irrelevant in the context of their residency rights in the EU. New Regulation No.243 corrects this incompatibility with the EU law. Regulation No.243 has (in annex) special application form for a Union citizens and their family members. This application form requires basic data of a person – name, surname, birth data, place of birth, reason of stay and desired length of stay etc. However one requirement might be ungrounded – why a Union citizen must provide data on his/her marital status if it is he/she is not going to reside in Latvia with family members (Section V of the application form)?

Article 14 (4) (a-b)

In general Regulation No.243 does not provide any connection between the grounds which may constitute a reason for rejection of registration card or suspension of residence rights and provisions on expulsion. Provisions on expulsion list only three grounds – public security, public policy and public health. It is unlikely that particular grounds provided for refusal to grant registration card or suspension of residence right may even constitute serious public policy reason and thus serve as a ground for expulsion.

From the perspective of particular reasons and in the light of Article 14(4)(a) of the Directive 2004/38 Point 57.1 of the Regulation No.243 provides that a Union citizen (and his/her family members) may not be deprived of the right of residence even if he/she constitutes unreasonable burden to social security system if he/she is employed or self-employed in Latvia.

13 OG No.105, 6 July 2001.

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Article 14(4)(b) is implemented by Point 27.1 of the Regulation No.243 and provides that a Union citizen has a right to reside in Latvia without registration card up to six months if his/her principal aim of a stay in Latvia is to seek employment and even after six months of a stay in Latvia a Union citizen and his/her family members may stay in Latvia without registration if a Union citizen could prove that he/she has a genuine chance to get employment.

Article 17

Article 17 of the Directive is implemented almost word by word by Point 32 of the Regulation No.243. Point 32 provides ‘if a Union citizen who has resided in the territory of the Republic of Latvia in the status of an employee or self-employed person for a period of time shorter than five consecutive years shall have the right to receive a permanent residence certificate if he or she:

- 32.1. at the time of ceasing their professional activities has reached the age of retirement as specified in the regulatory enactments of the Republic of Latvia or has ceased paid employment, to go into retirement prematurely if he or she has worked in the Republic of Latvia for at least the previous 12 months and has resided continuously in the Republic of Latvia for longer than three years. A continuous period of residence in the Republic of Latvia shall include a period of employment in another Member State;
- 32.2. has continuously resided in the Republic of Latvia for longer than two years and terminated employment in the Republic of Latvia due to irreversible incapacity for work. If such incapacity to work has resulted due to an accident occurring at work or occupational illness, for which a person has the right to receive a benefit in the Republic of Latvia, the conditions regarding the length of residence shall not be applicable. A continuous period of residence in the Republic of Latvia shall include a period of employment in another Member State;
- 32.3. after three years of continuous working relations and residence in the Republic of Latvia as an employee or self-employed person in another Member State, retaining his or her place of residence in the Republic of Latvia and returning to it every day or at least once a week.’

Point 33 of the Regulation No.243 implements the right to include as employment period duly recorded involuntary unemployment, absences from work or cessation of work due to illness or accident.

Point 34 of Regulation No.243 implements requirements of Article 17(2) of Directive 2004/38. It provides that requirement of the length of residence provided by Point 32 is inapplicable if a spouse of a Union citizen is or has been citizen of Latvia but has lost citizenship of Latvia due to the marriage with a Union citizen.

Article 17(3) of the Directive is implemented by Point 37.1 which provides that in order to obtain permanent residence right for a family member requirement of at least five year continuous residence does not apply if a Union citizen has obtained permanent residency right on the basis of Point 32 of the Regulation No.243 (Article 17(1) of the Directive).

Article 17(4) of Directive 2004/38 is implemented word by word by Point 42 of the Regulation No.243.

*Article 24 (2)**Social assistance*

The Social Assistance and Social Services Law¹⁴ regulates system of social assistance and social services in Latvia. Article 3(1) of the said law provides that the right to social assistance and social services have foreigners who have obtained Latvian personal code, except those foreigners who have temporal residence permit. It follows that even though all persons having either residence permit or registration card are given Latvian personal code, nevertheless only those having permanent residence permit are entitled to social assistance and social services. Besides to requirement of permanent residence right a person must be registered as inhabitant at one of municipalities. It is because social assistance allowances are provided by municipalities. The social assistance allowances which must be provided by municipalities are minimum subsistence (income guarantee) allowance and housing allowance.¹⁵ It follows that a Union citizen and his/her family members may claim social assistance allowances only after acquisition of permanent residence permit and registration of place of residence at one of the municipalities. Since Article 8(2) of the Directive 2004/38 requires provision of address on a registration certificate one could not obtain residency permit without being registered place of residence at one of the municipalities.

It follows with respect to the social assistance and social services that Latvian law does not implement correctly and completely Article 24(2) of the Directive 2004/38. It excludes employed and self-employed Union citizens and their family members having temporal residence permits (registration cards). Besides Point 48 of the Regulations No.243 obliges municipalities to inform OCMA within 10 days if social assistance has been claimed by a Union citizen or his/her family members. Such obligation with respect to the employed and self-employed Union citizens and their family members runs contrary Article 14(4)(b) of the Directive 2004/38.

Social benefits

Other social benefits falling outside the scope of Regulation 883/2004 (1408/71) but falling within the scope of Article 24(2) of Directive 2004/38 are provided by the Law on State Social Allowances.¹⁶ Article 4(1) of the Law on State Social Allowances¹⁷ provides that law is applicable to the foreigners who have obtained personal code and reside in Latvia permanently. In practice all Union citizens and their family members who have registered at OCMA and thus possess residency permits or certificates are given personal code and are included in the Population Register. Ministry of Welfare¹⁸ considers that after obtaining of residency permit (registration card), personal code and inclusion into Population register Union citizens and their family members qualify as beneficiaries under Article 4(1) of the Law on State Social Allowances. However situation is not so clear, because Article 4(2) of

14 OG No.168, 19.11.2002., as amended until 2010 OG No.170, 27 October 2010.

15 Article 35(1) of Social Assistance and Social Services law, OG No.168, 19 November 2002, as amended until 2010 OG No.170, 27 October 2010.

16 OG No.168, 19 November 2002, as amended until 2010 OG No.47, 24 March 2010.

17 OG No.168, 19 November 2002, as amended until 2010 OG No.47, 24 March 2010.

18 Letter of 09.03.2009. No.09.2-07/753

the said law expressly provides that the right to state social allowances do not have persons having temporal residency permit.

Thus the Law on State Social Allowances also does not correspond to the requirements of Article 24(2) of Directive 2004/38, because excludes economically active Union citizens and their family members having temporal residency permits (certificates).

Education

The Education Law¹⁹ is umbrella law for whole education system of Latvia and concerns pre-school education, primary education, secondary, professional and higher education. Until 26 March 2010 Article 3 of the Education Law provided that any Union citizen who has a residence permit (temporal or permanent) has a right to education on the equal grounds. On 4 March 2010 Parliament (Saeima) adopted amendments to the Education Law on persons who have the right to education.²⁰ Now Article 3 provides the right to education to a Union citizen without requirement on possession of residency permit. It follows the Education Law in general implements requirements of Article 24(2) of Directive 2004/38, but only with regard to Union citizens, not to their family members who are third country nationals.

On the other hand there have been no amendments to other laws regulating each particular level of education, for example, to the Law on Institutions of Higher Education.²¹ Article 83(1)(5) the said law provides that only Union citizens and their children who study at the institutions of higher education in Latvia enjoy equal rights with Latvian citizens regarding education fees.

The similar problem occurs with Regulation No.220 'Procedure for granting, returning and discharging study grants and student loans from a credit authority with State guarantees'²² providing for the right to receive study grants from commercial banks with the state as the guarantor. Point 3 of Regulation No.220 awards a right to grants and loans on equal footing with Latvian citizens and non-citizens to the Unions citizens only under condition they possess temporary or permanent residence rights.

Thus Latvian law in the field of education implements requirements of the Article 24(2) of Directive 2004/38 incompletely – it grants the right to education on the equal footing to all Unions citizens and totally exclude family members – third country nationals of economically active Union citizens.

2. SITUATION OF JOBSEEKERS

According to the Regulation No.243, first, in general jobseekers - Union citizens and their family members may reside in Latvia up to three months without registration (Point 26), second, jobseekers - Union citizens and their family members may reside in Latvia without registration up to six months and longer if a Union citizen could prove that he/she has a genuine chance to engage in employment relationship (Point 27.1), third, jobseeker and his/her

19 OG No.343/344, 17.11.1998., as amended until 2010 OG No.205, 29 December 2010.

20 OG No.47, 24.03.2010.

21 OG No.179 17.11.1995. as amended until 2010 OG No.206, 30 December 2010.

22 OG No.303 10.07.2001. as amended until 2010 OG No.29, 19.02.2010.

family members may obtain residency certificate and permits under general conditions for economically inactive Unions citizens and their family members (Point 28.5)

In practice Union citizen with his/her family members could reside in Latvia and seek employment without registration to OCMA for unlimited period because of *Schengen* agreement travel regime where no one could establish particular date of arrival and period of residence.

The situation is different if a Union citizen wishes to use services provided by the State Employment Agency - Latvian administrative institution in charge of assistance to unemployed or jobseekers.²³ Official registration is crucial if a Union citizen seeking employment wants to be entitled to unemployment benefit exportable from another Member State or/and wants to attend different kind of educational and vocational courses for unemployed and jobseekers provided by the State Employment Agency.

Latvian law does not require possession of registration certificate for the purposes of official registration as unemployed or self-employed. According to the Law on the Support of Unemployed and Jobseekers²⁴ a Union citizen is entitled to the support services provided by the State Employment Agency without residency permit. Article 2(2)(2) of the said law requires expressly residence permit to the family member of a Union citizen, omitting such requirement with regard to a Union citizen. Right to obtain status of unemployed or jobseeker is regulated in more detailed by the Regulation No.891 of the Cabinet of Ministers 'Procedure on award of status of unemployed person or jobseeker and documents necessary for the award of such status'.²⁵ Point 3 provides for the documents which must be submitted for the award of status of unemployed and jobseeker. Those are:

- 3.1 Identification document or travel document;
- 3.2 Residence permit, if person according to Latvian normative acts must possess it;
- 3.3 Form E 303 according to Regulation No.1408/71, if person wants to export unemployed allowance from another EU Member State.

Taking into account provisions of Point 26 of the Regulation No.243 allowing legal residence in Latvia without registration up to three months and Point 27.1 of the same Regulation allowing seeking employment even longer than six months, Point 3.2 of Regulation No.891 has to be inapplicable during periods and situations specified by the Regulation No.243. Consequently formally Latvian law does not require possession of registration card for the purposes of official registration as unemployed or jobseeker at the State Employment Agency. However in practice requirements are different.

In practice the State Employment Agency in addition to valid travel document and Form U 2 or E 303 (where relevant)²⁶ requires notice on award of Latvian personal code and official registered place of residence in Latvia issued by OCMA.²⁷ It is necessary for data collecting system of unemployed and jobseekers connected with Latvian Population Register. Until registration of a person in the Population Register he/she does not have any official ties

23 According to Law on the Support of Unemployed and Jobseekers, OG No.80, 29.05.2002 as amended until 2010, OG No.51/52, 10 March 2010, unemployed person is person who is entitled to unemployment allowance, but jobseeker is person who does not have a right to unemployment allowance

24 OG No. 80, May 2002, as amended until 2010, OG No.51/52, 10 March 2010.

25 Adopted on 18.12.2007., OG No.205, 21.12.2007.

26 According to new Regulations 883/2004

27 Telephone interview with EURES unit of the State Employment Agency on 28 June 2011.

with Latvia. However it is impossible to obtain Latvian personal code and official place of residence without registration card, because registration card (registration at OCMA) at the same time means official registration at the Population Register of Latvia which fixes official place of residence in Latvia and awards a Union citizen Latvian personal code. It follows that for the purposes of the official registration as unemployed or jobseeker in Latvia a Union citizen must obtain registration card. Such a requirement runs contrary both – Latvian law and Directive 2004/38.

Besides that Regulation 883/2004 requires application of U 2 or E 303 form for the purposes of exporting unemployment allowance in the competent authority of a host state within 7 days after receiving it from the competent authority of a sending state. In reality it is impossible to comply with such a short term, because, first, travelling from one state to another may take few days and also OCMA might not be able providing registration certificate on the same day after application.²⁸ So, in most cases it is impossible to comply with 7 days term under Regulation 883/2004 to submit U 2 or E 303 form at a competent authority of a host state. In practice the State Employment Agency tries to be flexible although there have been cases where a Union citizen had miss 7 days term for registration, nevertheless no one so far has been refused right to exportable unemployment benefit in Latvia because of non-compliance with term.²⁹

3. OTHER ISSUES OF CONCERN

Nothing to report

4. FREE MOVEMENT OF ROMA WORKERS

Officially in Latvia reside 8582 persons of Roma origin but in reality they are at least twice as many. The experts estimate that there are around 15 000 Roma persons residing in Latvia.³⁰ The difference between official number and reality is explained by the fact of Roma discrimination in all spheres of social life in Latvia which leads to the situation where Roma persons change their official ethnic origin to either Latvian or Russian. However change of official ethnic origin cannot change likeness – Roma persons look differently from the rest of population of Latvia due to darker colour of skin, eyes and hair. Although experts considers that Latvian Roma are better integrated in society than Roma in other countries of Eastern Europe, because they know Latvian language and most of them are Latvian citizens, never-

28 Point 49 of the Regulations No.243 provides that OCMA issues registration card immediately after application of all necessary documents by a Union citizen. OCMA considers term ‘immediately’ as within 7 days, this is because Population Register does not produce personal codes automatically. Due to this issue of registration card usually takes at least 3 days (telephone interview with the Head of Migration Department of OCMA, 29 June 2011).

29 Telephone interview with EURES unit of the State Employment Agency on 28 June 2011.

30 Klejot un dzīvot apmetnē? Nē, nē, ne par ko!, newspaper ‘Diena’, 10 September 2010, <http://news.lv/Diena/2010/09/10/Klejot-un-dzivot-apmetne-Ne-ne-ne-par-ko!>.

theless (even after change of official ethnicity) Roma persons continue suffering from discrimination in many spheres of life.³¹

In all times Roma persons in Latvia have suffered from discrimination in labour market and economic crisis made their situation worse while opening of the EU labour market allowed them not only to get employment in the West but also live in friendly social environment free from everyday discrimination in social life. Roma persons claim that they feel free from discrimination, especially in the UK and Ireland. So, researchers estimate that 10 000 out of 15 000 Latvian Roma have made a use of their free movement and employment right and went to Western Europe.³² Representatives of Roma communities in Latvia approves the fact that more than half of their relatives are already in West and many more are preparing to leave Latvia in nearest future on account of discrimination in combination with unemployment.³³

31 Mūsu čigāni deportējas labprātīgi, VentasBalss.lv, 10 September 2010, <http://www.ventasbalss.lv/news/read/2281> .

32 Klejot un dzīvot apmetnē? Nē, nē, ne par ko!, newspaper 'Diena', 10 September 2010, <http://news.lv/Diena/2010/09/10/Klejot-un-dzivot-apmetne-Ne-ne-ne-par-ko!> .

33 Mūsu čigāni deportējas labprātīgi, VentasBalss.lv, 10 September 2010, <http://www.ventasbalss.lv/news/read/2281> .

Chapter II: Members of the family

1. THE DEFINITION OF FAMILY MEMBERS AND THE ISSUE OF REVERSE DISCRIMINATION

The new Regulation No.243³⁴ implements new - more extended definition of a family member than by old Regulation No.586.³⁵

Point 4 of the Regulation No.243 provides that a family member of a Union citizen is:

- 4.1 Spouse of a Union citizen;
- 4.2 Direct descendent of a Union citizen or his/her spouse who has not attained age 21 or dependent direct descendent of a Union citizen of his/her spouse;
- 4.3 Dependent direct ascendant of a Union citizen or his/her spouse.

Point 5 of the Regulation No.243 provides that a family member of an extended family of a Union citizen is:

- 5.1 Family member who is dependent of a Union citizen or who had common household in a previous country of residence or who has serious health problems requiring personal care and a Union citizen confirms that may provide such care;
- 5.2 Partner, with whom a Union citizen has had at least two years long or registered partnership.

The old definition of a family member provided by the old Regulation No.586 did not recognize as family members persons which require personal care by a Union citizen on account of health problems and partners – both registered and non-registered. It is however unclear why Latvian legislator has decided that unregistered partnership is durable if it has lasted at least two years. The author of this report considers that most important aspect here is the rights of a child. However Regulation No.243 takes into account situation where unregistered partners have a common child.³⁶ In such a situation a family member simply has to prove that they have a common child with a Union citizen without requirement on proof of at least two years relationship.

National immigration law provides more restrictive definition of family member than EU law. The Immigration law³⁷ recognizes as a family member of Latvian citizen or Latvian non-citizen spouse, minor children, minor children of a spouse and parents. Listed family members may require residency permit with a view to permanent stay. However there are certain restrictions. Parents may obtain residency permit if they have attained pensionable age and do not require any social assistance. Children have residency right until attainment of majority, which is 18 years of age. In case of divorce or death of spouse – Latvian citizen or Latvian non-citizen, spouse of deceased person loses residency rights, unless he/she has minor child – Latvian citizen or Latvian non-citizen. Consequently national immigration law creates reverse discrimination against Latvian citizens in a pure internal situation.

34 OG No.58, 13 April 2011

35 OG No.114, 20 July 2006, not in force since 14 April 2011.

36 Point 38.5.

37 OG No.169, 20 November 2002 as amended until 2011 OG No.93, 15 June 2011

2. ENTRY AND RESIDENCE RIGHTS

Entry and residency rights for family members are provided by the same Regulation No.243.³⁸ In general the requirements of Directive 2004/38 with regard to the right to entry and residence of family members of a Union citizen are implemented correctly. However there might be some shortcomings.

First, Points 29.3, 35.3, 38.6 of Regulation No.243 require accept of both parents to acquire registration card or residence permit for a minor. Accept of either parent may be proved by written notice attested by sworn notary or if custody is awarded to one of the parents – by decision of a court or a competent authority. Such requirement runs contrary Directive 2004/38, because it gives exhaustive list of documents which administrative institution may require for the purposes of getting residency permit. Directive does not require the consent of both parents to get residency permit for a child. Besides it is unclear how such norm could contribute to the better protection of the rights of a child.

Second, according to Point 40.2 O OCMA issues permanent residency permit to a family member of a Union citizen, who has obtained permanent residence right, to 10 years only. Such provision may be contrary to Article 17(3) of Directive 2004/38, because latter provision does not envisage granting permanent residency permit to a family member for a particular term.

Third, Point 38.2 of the Regulation No.243 according to Directive 2004/38 requires submission of documents testifying marriage or other kind of family ties (for example, birth certificate for child). In practice OCMA accepts only legalised marriage certificates or other official documents issued by third country (not by official institutions of other Member State). Besides, OCMA accepts documents only in Latvia, Russian, English, German and French.³⁹ So, if a document is, for example, in Spanish, it is required to submit official translation (attested by sworn notary) in either of accepted languages which might be costly.

OCMA complies with requirements on terms for issuing residency permits for family members. Official term for taking decision on award of residency permit is 30 days.⁴⁰ However after submission of all required documents OCMA issues notice that a family member - third country national has a right to stay legally in Latvia until decision on residency permit will be taken.⁴¹ OCMA states it usually provides residency permit for family member who is third-country national - within two weeks, even more OCMA tries providing residency permits to all family members together with a Union citizen.⁴²

38 OG No.58, 13 April 2011.

39 Article 22(4) of the Immigration Law, OG No.169, 20 November 2002, as amended until 2011, OG No.93, 16 June 2011. Article 21 of the Immigration Law which defines norms of the said law applicable to the Union citizens and their family members does not refer Article 22(4) as applicable to such group of persons. It follows that formally OCMA may not require application of documents by the Union citizens and their family member only in five languages specified by the Immigration Law.

40 Point 51 of the Regulations No.243

41 Point 50 of the Regulations No.243

42 Telephone interview with the Head of Migration Department of OCMA (29 June 2011).

3. IMPLICATIONS OF THE METOCK JUDGMENT

There are no implications of the *Metock* judgement in Latvia, because Latvian legal regulation on residence rights of family members of the Union citizens has never contained condition on previous lawful residence in another EU Member State.

4. ABUSE OF RIGHTS, I.E MARRIAGES OF CONVENIENCES AND FRAUD

In Latvia on 2011 there were fewer cases suspected to fall under marriage of convenience than in previous years. Most frequently cases concern Latvian women having true intentions to found a family with a third country national (most frequently Turkish or Egyptian nationals) do not having genuine intention to found a family, but to obtain residence rights in the EU. Such situations occur due to quiet a big imbalance between number of male and female inhabitants in Latvia which emerge after age 34 where there are many more women than men. It follows that for Latvian women after age of 35 it is very complicated to find a life partner. Since there are most intensive tourism flows to Turkey and (was) to Egypt, Latvian women especially in such countries (during their holidays) meet intended life partners (nationals of respective countries).

The other aspect of marriages of conveniences with regard to Latvia is that Latvia is a country of 'origin' of 'brides' for third country nationals residing in Western Europe, especially in Ireland and Great Britain. If some years ago Latvian girls voluntary engaged in such marriages of convenience in other EU Member States then in recent years many Latvian girls have become victims of human trafficking. Namely, they were recruited to the UK or Ireland for work but instead after arrival they were locked in closed premises and threatened to be abused if they will not agree to marry a third country national. On 2010 the police of all countries involved has discovered groups and schemes of transnational organized crime committing offences in the field of marriages of convenience leading to human trafficking and kidnapping.

5. ACCESS TO WORK

Point 7 of the Regulation No.243 explicitly provides that family members of a Union citizen do not need work permits for employment or self-employment in Latvia. However it is questionable if family member who is third country national may enjoy this right before getting residency permit, i.e., before proving to official authorities that he/she has a status of a family member of a Union citizen. This matter is not regulated explicitly by Latvian law.

Official status of a jobseeker or unemployed family member may acquire only after he/she gets residency permit. Article 2(2)(2) of the Law on the Support of Unemployed and Jobseekers⁴³ expressly provides that a family member of a Union citizen must have residen-

43 OG No. 80, May 2002, as amended until 2010, OG No.51/52, 10 March 2010.

cy permit in order being registered officially as unemployed or jobseeker. Officially it takes 30 days to obtain residency permit,⁴⁴ but in practice – shorter period of time.

6. THE SITUATION OF FAMILY MEMBERS OF JOB-SEEKERS

While a Union citizen has not obtained residency permit together with his/her family members latter do not have almost any other rights than right to reside in Latvia together with a Union citizen (legally up to six month or more). It may pose a serious problem to receive exportable benefits under Regulation 883/2004, because benefits are not exportable while a family member is not registered officially as unemployed at the State Employment Agency, but the State Employment Agency may not register a family member as unemployed while a family member does not possess a residency permit.⁴⁵

With regard to social assistance and benefits as described in Chapter I both - Social Assistance and Social Services Law⁴⁶ and Law on State Social Allowances⁴⁷ require personal code and permanent residency permit. Personal code may not be obtained without acquisition of residency permit.⁴⁸

With regard to education – only those family members who are Union citizens themselves have a right to education without residency permit, while family members who are third-country nationals have a right to education only if they possess residency permit.⁴⁹

44 Article 49 of the Regulations No.243.

45 See in detail the same problem with regard to a Union citizen Chapter I Section 2.

46 OG No.168, 19 November .2002, as amended until 2010 OG No.170, 27 October 2010.

47 OG No.168, 19 November .2002, as amended until 2010 OG No.47, 24 March 2010.

48 Telephone interview with the Head of Migration Department of OCMA, 29 June 2011.

49 Article 3 of Education Law, OG No.343/344, 17.11.1998., as amended until 2010 OG No.205, 29 December 2010.

Chapter III: Access to employment

1. ACCESS TO EMPLOYMENT IN THE PRIVATE SECTOR

1.1 *Equal treatment in access to employment*

Assistance to the jobseekers is provided by employment agencies of two types. First is the State Employment Agency. It is public administrative institution providing whole spectrum of employment services – starting from official registration of unemployed and jobseekers, provision of state paid vocational training and ending with proposition of vacant posts. Second type embraces private employment agencies which simply offer to their clients vacant positions and at the same time provide staffing services to employers.

The State Employment Agency provides employment services stipulated by the Law on the Support to Unemployed and Jobseekers.⁵⁰ This institution provides vocational training, retraining, enhancement of professional qualifications, involvement in temporary work and in employment activities for special groups of persons, support for taking up entrepreneurship or self-employed activities, and of course career consultations as well as offers vacancies. According to the Law on the Support to Unemployed and Jobseekers once a Union citizen has been registered officially as unemployed or jobseekers he/she is entitled to all services provided by the State Employment Agency on the equal grounds. However, serious obstacle to enjoyment of these rights is language. All services provided and training is carried out in Latvian exclusively. Besides, there are very high Latvian language requirements for employment in almost all professions (see Section 1.2 below).

Private employment agencies must obtain license from the State Employment Agency to provide employment services (including temporary work agencies). It is provided by Article 17 of the Law on the Support to Unemployed and Jobseekers. Detailed regulation on the rights and obligations of the private employment agencies are provided by Regulations No.458 ‘On procedure of supervision and licensing of merchants providing employment services’⁵¹. Point 24.2 of Regulation No.458 among various obligations of the private employment service providers requires observance of the principle of equal treatment and non-discrimination provided by the Labour law.⁵²

1.2 *Language requirements*

General requirement of obligation of use of official language is provided by the State Language law.⁵³ According to the Article 1 one of the aims of this law is to ensure that Latvian language could be used freely within every field of life. According to Article 3(1) official

50 OG No.80, 29 May 2002 as amended until 2010, OG No.51/52, 31 March 2010.

51 OG No.108, 06 July 2007 as amended until 2009, OG No.38, 10 March 2009.

52 OG No.105, 06 July 2001. as amended until 2011 OG No.62, 20 April 2011. In particular Article 29 of the Labour law prohibits discrimination but does not explicitly mentions among non-discrimination grounds nationality, however the list of discrimination grounds are not exhaustive and are open.

53 OG No.428/433, 21 December 1999.

language in Latvia is Latvian language. Language requirement with regard to the private sector is regulated by Article 6. It provides that:

- (1) employees of enterprises whose majority of shares are owned by state or municipality, must know and use official language at such level as necessary for the performance of their professional duties;
- (2) employees of private sector and self-employed must use official language only as far as it concerns legitimate interests of the society (public security, health, morality, protection of health, consumer protection, protection of labour law, safety at work, administrative supervision of public)
- (3) employees of private sector and self-employed which according to the delegation by normative acts perform public functions must know and use official language level necessary for the performance of such public functions;
- (4) foreign experts and members of the foreign administration bodies of enterprises, who work in Latvia, must know and use official language at level necessary for the performance of their functions or must provide themselves translation into official language.

More detailed regulation on the language requirements are provided by regulation of the Cabinet of Ministers adopted on the basis of Article 6 of the State Language Law.

Currently language requirements for the purposes of employment are provided by Regulation No.733 ‘On the level of knowledge of official language and procedure for verification of official language proficiency necessary for the performance of professional duties, for the acquisition of permanent residency permit and status of permanent resident of the European Community, and on state duty for testing of proficiency of official language’.⁵⁴ Requirements on knowledge of the official language in the employment have been very high since the very beginning.⁵⁵

There are three levels of the knowledge which are divided in two sublevels – A and B.

The first level requires basic knowledge of Latvian, the second requires ability to deal with almost all aspects of everyday and professional life in Latvian, the third indicates knowledge close to native speaker.

Regulation No.733 has two appendixes. The appendixes provide a list of the exact requirements on the level of knowledge of the official language for particular professions. The requirements of Appendix I are applicable to the state and municipal institutions and enterprises which are wholly or predominantly owned by the state or municipality or to the persons listed by Article 6(1) of the State Language Law. Appendix I provides exhaustive list of professions acknowledged in Latvian labour market. It means that Appendix I provide official language proficiency level for all professions. The requirements of Appendix II are applicable to private enterprises which according to normative acts perform public functions or whose activities concern legitimate interests of society or to the persons listed by Article 6(2) and (3) of the State Language Law. Interpretation of the Article 6(2) is not given officially. However, it may be interpreted in many different ways. It may be interpreted as well that any profession or post in the private sector involves legitimate interests of the society in one or

54 OG No.110, 14 July 2009., repealing Regulation No. 296 ‘On the level of knowledge of the state language necessary for performance of professional duties and duties of position and procedure for verification of state language proficiency’, OG No.302, 29 August 2000.

55 Since adoption of the State Language Law on 1999.

another way, thus applicable to all employees of private sector. Language inspectors of the State Language Centre⁵⁶ however explain that Article 6(2) concerns those employees only working with customers and administrative institutions (for example, bookkeepers working with State Revenue Office, office workers and board members working with different administrative institutions). For the rest of employees of private sector employer is allowed to define official language proficiency level itself. However in practice Language inspectors apply this legal regulation in a way allowing private employer setting one level lower proficiency level than provided by Annex I for particular profession in public sector.

Appendix II contains approximately 30% of professions acknowledged in Latvian labour market. It sets proficiency requirements for professions listed therein. The list of profession with particular requirements on the knowledge of official language has been amended (extended) several times by hundreds of particular professions setting concrete level of the knowledge of Latvian language.

In addition, Regulation No.733 provides for specifically defined means of proof of knowledge of the state language. It could be proved either by a diploma of primary, secondary or higher educational establishment where studies are carried out in Latvian or a diploma issued by the state language proficiency examination commission. It seems that such provisions might not be in conformity with the case law of the CJEU, in particular *Angonese*.⁵⁷

2. ACCESS TO EMPLOYMENT IN THE PUBLIC SECTOR

2.1 *Nationality condition for access to positions in the public sector*

Posts reserved exceptionally for Latvian citizens according to the special laws are the same as on 2009/2010: civil servant,⁵⁸ judge,⁵⁹ court bailiff,⁶⁰ notary,⁶¹ prosecutor,⁶² official of the system of interior and place of imprisonment,⁶³ police officer,⁶⁴ officer of state security institutions,⁶⁵ fire fighter,⁶⁶ boarder guard,⁶⁷ national guard,⁶⁸ civil employee in military service,⁶⁹

56 State administrative institution in charge of enforcement and supervision of the use of official language in all sectors of life

57 C-281/98, Roman Angonese v Cassa di Risparmio di Bolzano SpA. European Court reports 2000 Page I-04139

58 Law on Civil Service, OG No.331/333, 22 September 2000., as amended until 2010, OG No.174, 3 November 2010.

59 Law on Judicial Power, OG No.1, 14 January 1993., as amended until 2010 OG No.206, 30 December 2010.

60 Law on Court Bailiffs, OG No.165, 13 November 2002. as amended until 2011, OG No.65, 27 April 2011.

61 Law on Notariate, OG No.26/27., 09 July 1993. as amended until 2010 OG No.183, 17 November 2010.

62 Law on Prosecutor's Office, OG No.65, 02 June 1994 as amended until 2010, OG No.205, 29 December 2010.

63 Law on service at system of Interior affairs and of Imprisonment Office of persons with special service ranks, OG No101, 30 June 2006. as amended until 2010 OG No.205, 29 December 2010.

64 Law on Police, OG No.31, 29 September 1992., as amended until 2010, OG No.183, 17 November 2010.

65 Law on State Security Institutions, OG No.59, 19 May 1994. as amended until 2009, OG No.205, 30.12.2009.

66 Law on service at system of Interior affairs and of Imprisonment Office of persons with special service ranks, OG No101, 30 June 2006. as amended until 2010 OG No.205, 29 December 2010.

67 Law on service at system of Interior affairs and of Imprisonment Office of persons with special service ranks, OG No101, 30 June 2006. as amended until 2010 OG No.205, 29 December 2010.

68 Law on the National Guard of the Republic of Latvia, OG No.82, 26 May 2010, as amended until 2010, OG No.205, 29 December 2010.

employee of the State Revenue Office⁷⁰ and employee in the diplomatic and consular service.⁷¹

2.2 Language requirements

As described in Section 1.2 above language proficiency requirements are regulated by the State Language Law and Regulation No.733. With regard to public sector Annex I of Regulation No.733 is applicable. Annex I provides level of official language proficiency for all professions acknowledged in Latvian employment market. It means that there is no possibility to work in public sector without knowledge of Latvian.

Language proficiency levels required for persons working in public sector (Annex I) are higher than those working in private sector (Annex II). It leads to an absurd situation where persons performing the same professional duties but in different sectors (public or private) are subject to different levels of official language requirements. Even more, if proficiency level for a particular profession is not provided by Annex II or person in private sector is not involved in work with costumers or administrative institutions, he/she is not subject to any language proficiency requirement while person performing the same professional duties in a public sector is subject to official language proficiency requirement set by Annex I. Such legal regulation is inconsistent with reality and evidence itself on the ungrounded and disproportionate character of the language requirements for certain professions.

2.3 Recognition of professional experience for access to the public sector

There are no special requirements in the recruitment procedures other than requirement of Latvian nationality for particular posts or professions and knowledge of Latvian language.

3. OTHER ASPECTS OF ACCESS TO EMPLOYMENT

Although there is no special legal regulation with regard to professional experience for the access to employment in the public sector, nevertheless, previous professional experience is important with regard to the amount of remuneration.

Remuneration in public sector is regulated by the Law on Remuneration of officials and employees in state and municipal institutions.⁷² On the basis of such law the Cabinet of Minister Regulation No.1651 is adopted.⁷³ Regulation No.1651 regulates in detail determination

69 Law on Military Service, OG No.91, 18 June 2002. as amended until 2010, OG No.178, 10 November 2010.

70 Law on State Revenue Office, OG No.105. 11 November 1993. as amended until 2010, OG No.99, 22 June 2010.

71 Law on Diplomatic and Consular Service, OG No.155, 10 October 1995., as amended until 2009, OG No.194, 10 December 2009.

72 OG No.199, 18 December 2009, as amended until 2010, OG No.206, 30 December 2010.

73 Regulations on remuneration, qualification grades and their determination for officials and employees of state and municipal institutions, OG No.206, 31 December 2009, as amended until 2011, OG No.58, 13 April 2011

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of qualification grade and accordingly - amount of pay. The amount of remuneration is higher if official or employee is awarded higher qualification which also depends on professional experience. Regulation No.1651 recognises professional experience acquired in the public sector only (particular institutions),⁷⁴ with two exceptions – if a person has at least three years professional experience in the private sector or the person has acquired professional experience in the municipal sector, and such professional experience is vital for the performance of a particular work in the public sector.⁷⁵

There is no legal regulation requiring certain diplomas or giving privilege to the holders of particular diplomas of particular educational establishments. In practice, however, it is legitimate to require to the candidates to the post particular education, for example, in law or in economics.

74 Point 10.2.

75 Points 14 and 15.

Chapter IV: Equality of treatment on the basis of nationality

1. WORKING CONDITIONS – DIRECT AND INDIRECT DISCRIMINATION

Specific issue: Working conditions in the public sector

As described in Chapter III Section 3 work experience is precondition for getting higher qualification grade and consequently salary of higher amount in public sector. According to the Regulation No.1651 in Latvia only professional experience in public sector in Latvia is taken into account for the award of qualification grade and respective amount of salary.⁷⁶ Education is of course determining factor for award of grade in public sector. However normative acts do not contain any specific requirements with regard to diplomas obtained in particular educational establishments or countries for the purposes of determining qualification grade, salary or any other working conditions.⁷⁷

Latvian law does not contain express norms on unequal treatment of the Union citizens from other Member States regarding working conditions in the public sector. Taking into account very small number of the Union citizens from other EU countries working in Latvia in general there is no information available on whether some law provisions have indirectly discriminatory effect on them.

2. SOCIAL AND TAX ADVANTAGES

2.1 General situation as laid down in Art. 7(2) Regulation 492/2011

There may be the problems with equal treatment in areas of social law falling outside the scope of Regulation 883/2004. In particular it concerns flat-rate state social allowances provided under the Law on State Social Allowances⁷⁸ and social assistance and social services provided under Social Assistance and Social Services Law.⁷⁹ Both laws expressly provide that they entitle foreigners to the rights provided thereby under condition they reside in Latvia permanently, even more they explicitly restricts those the right for persons holding temporary residence permits.⁸⁰ Although Article 45 of TFEU and Article 7(2) of Regulation 492/2011 override said national provisions and Ministry of Welfare⁸¹ considers that after obtaining of residency permit (registration card), personal code and inclusion into the Population Register a Union citizen and his/her family member qualifies as beneficiaries for state social allowances, social assistance and social services, such national law provisions of re-

⁷⁶ OG No.206, 31 December 2009, as amended until 2011, OG No.58, 13 April 2011.

⁷⁷ Law on remuneration of officials and employees of state and municipal institutions, OG No.199, 18 December 2009, as amended until 2010, OG No.206, 30 December 2010.

⁷⁸ OG No.168, 19 November 2002, as amended until 2010 OG No.47, 24.March 2010.

⁷⁹ OG No.168, 19 November 2002, as amended until 2010 OG No.170, 27 October 2010.

⁸⁰ Article 4(2) of the Law on State Social Allowances, OG No.168, 19 November 2001, as amended until 2010 OG No.47, 24.March 2010; Article 3(1) of the Social Assistance and Social Services Law, OG No.168, 19 November 2002, as amended until 2010 OG No.170, 27 October 2010.

⁸¹ Letter of 09.03.2009. No.09.2-07/753

spective law may mislead both – workers and their family members and state and municipal officials who take decisions on award of social benefits.

According to the Law on Duties and Taxes,⁸² a taxpayer is any natural or legal person who in the territory of Latvia performs activities resulting in income to which taxes are applicable. Employees and self-employed are subjects to the income tax. The income of natural persons is subject to some tax relief. It is the right to negative income deduction expenses on educational and medical services relating to a worker him/herself and/or his/her dependant family members. Detailed regulation on negative income deduction is provided by Regulation of Cabinet of Ministers No.336 ‘Regulations on justified expenses for education and medical services’.⁸³ Point 1.1 of Regulation No.336 expressly provides that expenses for education within the establishments of the EU are subject to negative tax deduction.⁸⁴ However no such express provision appears with regard to the medical services. In particular, it is not clear if expenses for medical services received in the other Member State are subject to the negative income deduction.

2.1 Specific issue: the situation of jobseekers

Latvian law does not provide for any special social benefit for jobseekers, thus judgments of the CJEU in cases *Collins*,⁸⁵ *Ioannidis*⁸⁶ and *Vatsouras*⁸⁷ are irrelevant for the Latvian situation.

As described in Chapter III Section 1.1 officially registered unemployed persons and jobseekers are entitled to employment services provided by the State Employment Agency. Such employment services include different kind of vocational training courses. During vocational training courses person is entitled to a study grant.⁸⁸ This right is applicable to all officially registered jobseekers irrespective of nationality. However obstacle is language. All courses are conducted in official language - Latvian. So, if jobseeker does not know Latvian, he/she may not attend vocational training and consequently they are not entitled to the study grants.

It is unclear if under Law on State Social Allowances⁸⁹ and Social assistance and social services law⁹⁰ jobseeker having registration certificate would be entitled to any social assistance and/or social services.

If a jobseeker come to Latvia by the car registered outside and obtains registration certificate in Latvia, he/she may experience some problems. In particular, none of the persons

82 OG No.26, 18 February 1995, as amended until 2011 OG No.80, 25 May 2011.

83 OG No.115, 03 August 2001, as amended until 2009 OG No.177, 06 November 2009.

84 Amended on 07.10.2008. OG No.168, 29.10.2009, in force since 01.01.2009.

85 Case C-224/98.

86 Case C-258/04.

87 Joined cases C-22/08 and C-23/08.

88 Regulations of Cabinet of Ministers No.212 ‘On study grant during vocational training, retraining and enhancement of professional qualification and during acquirement of informal education’, OG No.38, 10 March 2009.

89 OG No.168, 19 November 2002, as amended until 2010 OG No.47, 24 March 2010.

90 OG No.168, 19 November 2002, as amended until 2010 OG No.170, 27 October 2010.

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holding residency permit in Latvia is allowed to drive a car registered outside Latvia.⁹¹ Consequently taking into account the fact that in order to be entitled to employment services one should officially register at the State Employment Agency which is impossible without holding registration card (residency permit), a Union citizen wishing to register officially as the jobseeker in Latvia should take into account that he/she will be obliged to re-register his/her car in Latvia immediately after acquiring the registration card (residency permit).⁹² The said norms and norms precluding driving a car registered outside Latvia by Latvian citizens are currently contested before the Constitutional Court of Latvia. The claim was submitted by European company BTA which claims that such rules create serious obstacles to the mobile service provisions within the territory of the EU.⁹³

91 Article 9(4) and (5) of the Road Traffic Law, OG No.274/276, 21 October 1997, as amended until 2011, OG No.46, 23 March 2011.

92 See Chapter I Section 2.

93 Case No.2011-09-01 (under preparation), press release of the Constitutional Court, 2 May 2011, available in Latvian at http://www.satv.tiesa.gov.lv/upload/pr_ierosin_BTA_CSL.htm.

Chapter V: Other obstacles to free movement of workers

There are no other obvious obstacles to the free movement of workers in the field of employment, social and tax law, however they may appear in different spheres of life but it is not so easy to identify them theoretically.

Chapter VI: Specific Issues

1. FRONTIER WORKERS (OTHER THAN SOCIAL SECURITY ISSUES),

Taxes

The tax law is uncertain on the issues if frontier worker enjoy the same tax advantages as workers residing in Latvia.

First, according to Article 14(2)(2) of the Law on Duties and Taxes⁹⁴ a frontier worker would be considered as a resident tax payer.⁹⁵ Each tax payer is subject to the income tax deduction for dependants. However the Law on Income Tax⁹⁶ does not specify if an employee is subject to income tax relief if his/her dependants are residing in another EU Member State.

Besides resident tax payer may include into negative income deduction expenses for educational and medical services relating his/her dependant family members.

The Regulation of the Cabinet of Ministers No.336 'Regulations on justified expenses for educational and medical services'⁹⁷ obviously does not envisage the situation of frontier workers. First, expenses for medical services includes expenses for health insurance, but regards only such health insurance provided by insurance companies operating under Latvian Law on Insurance Companies and their Supervision⁹⁸, thus negative income deduction does not apply for such medical insurance provided by insurance companies outside Latvia. Second, although Regulation No.336 does not refer explicitly to the medical services received in Latvia only, it is more likely that State Revenue Office would apply the Regulation only regarding medical services received in Latvia.

Both points do not take into account situation of a frontier worker and his/her family members who reside in another Member State and more likely receive medical services there and buy medical insurance from local insurance companies.

It follows that Latvian tax law with regard to negative income deduction are contrary to Article 45 of the TFEU and Article 7(2) of Regulation 492/2011.

Only on 2008 Regulation No.336 was amended with the provision recognising expenses for educational services received in other Member States as subject to the negative income deduction.⁹⁹

Education

There are several problems concerning the right to education. First, the Education Law¹⁰⁰ provides for equal rights to education without requirement of possession of residency permit

94 OG No.26, 18 February 1995. as amended until 2011 OG No.80, 25 May 2011.

95 Resident tax payer under Law on Taxes and Dues' is person who either permanently lives in Latvia or are present in Latvia for at least 183 days during any 12 month period.

96 OG No.26, 18 February 1995. as amended until 2011 OG No.80, 25 May 2011.

97 OG No.115, 03 August 2001, as amended until 2009 OG No.177, 06 November 2009.

98 OG No.188/189, 30 June 1998 as amended until 2010, OG No.160, 8 October 2010.

99 OG No.168, 29 October 2008, in force from 01 January 2009.

to the Union citizens only. Consequently family members of a frontier worker who are third county nationals must obtain residency permit if they wish attending educational establishments in Latvia on the equal grounds with locals. Second, Point 3 of Regulation No.220 'Procedure for granting, returning and discharging study grants and student loans from a credit authority with State guarantees'¹⁰¹ explicitly provides for a right to grants and loans on equal footing with Latvian citizens and non-citizens to the Unions citizens only under condition they possess temporary or permanent residence permits. At the same time the laws - the Education Law¹⁰² and Law on Institutions of Higher Education¹⁰³ – creating the legal basis for Regulation No.220 – do not require residency permit to a Union citizen to enjoy studies in Latvia on equal grounds.

2. SPORTSMEN/SPORTSWOMEN

In general sport activities both professional and amateur are regulated by the Sports law.¹⁰⁴ The Sports law provides general principles of organisation of sports such as principle of equality (everyone has a right to do sport), principle of fair play, principle of safety.

Institution in charge of sports policy is Ministry of Education and Science. This institution is supported by public advisory institution – Latvian National Sports Council consisting of several ministers and leading sports organizations.

In general Latvia has adopted approach of non-intervention into organization of professional sports. In other words, executive power is in charge of setting very general framework of sports policy while competence of organisation of professional sport is fully left to the private sport organisations.

Sport organizations could be clubs, sport federations and other institutions defined by the Sports law. Sport clubs shall be organizations unifying natural and legal persons having common interests in one specific sport activity. Sports federations shall be non-governmental organisations consisting of sports clubs and other legal persons, whose activities are connected with particular sport activity. One sport federation could represent interests of several specific sport activities.

However one federation of particular sport activity could be recognized. Recognition procedure provides Council of Latvian Sport Federation according to the Regulation of Cabinet of Ministers. Council of Latvian Sport Federations is also in charge of certain control of recognized sport federations, for example, control on compliance with law, and consequently Council has competence depriving status of recognized sport federation.

Due to economic crisis professional sport activities in Latvia has reduced considerably, for example, due to lack of sponsors there are less competitions and leagues at national level.

100 OG No.343/344, 17 November 1998., as amended until 2010 OG No.205, 29 December 2010.

101 OG No.303 10.07.2001. as amended until 2010 OG No.29, 19 February 2010.

102 OG No.343/344, 17.11.1998., as amended until 2010 OG No.205, 29 December 2010.

103 OG No.179 17.11.1995. as amended until 2010 OG No.206, 30 December 2010.

104 OG No.165, 13 November 2002, as amended until 2009, OG No.86, 3 June 2009.

Ice-Hockey

Ice-hockey is the most popular sport in Latvia consequently here is the highest commercial interest.

Latvian Ice-Hockey Federation (recognized federation) organizes ice-hockey activities in Latvia.

Rules on transfer of players of Latvian Ice-Hockey Federation provide that transfer to foreign club which is under IIHF jurisdiction is regulated by IIHF regulation 'Transfers Regulations'. Latvian Rules on transfer stipulates the same transfer card costs (for transfers in Latvia) for all players – 130 LVL (185 EUR). However Rules on transfer provides also player's registration fees. Amount of fees for adults (19 year and older) differs considerably on the grounds of nationality. Latvian player must pay 15 LVL (21 EUR) but foreign player must pay 200 LVL (284 EUR).¹⁰⁵

According to Regulations on Latvian Ice-hockey League adopted by Latvian Ice-Hockey Federation there is restriction of number of foreign players in team for a game. There may be only 5 foreigners announced for a game.¹⁰⁶

Very important role in Latvian sport has ice-hockey team (club) '*Dinamo Rīga*'. It is established as joint-stock company with an aim to participate in Continental Ice-Hockey League (Russian league established under law of Russian Federation). Regulations of Continental Ice-Hockey League provide restriction for number of foreign players in Russian teams. The limit is 5 field players and one goalkeeper.¹⁰⁷ No limitation with regard to non-national players appears with regard to foreign clubs participating in the League as '*Dinamo Rīga*' is.

Football

Website of Latvian Football Federation does not provide any local documents on rules of registration and transfer of players. The website provides only FIFA general rules on the status and the transfer of the players.¹⁰⁸

Rules of Latvian Premiere League Football Championship for season 2011 do not limit number of foreigner players in team but allow for a game only 5 foreigner players being on a field together. There are special participation fees for foreign players. Club is under obligation paying participation fees for each foreign player – for first five players – 300 LVL (426 EUR) for each, for sixth – 500LVL (711 EUR), for seventh – 800 LVL (1138 EUR), for

105 Available in Latvian on http://i9.tiesraides.lv/files/2011-06/2011-06-21_nolikums_par_speletaju_pareju.pdf (accessed on 26 June 2011).

106 Latvian Ice-Hockey Federation Rules on Latvian Ice-hockey League 2010/2011, http://www.lhf.lv/cempionati/latvijas_cempionats/ (accessed on 26 June 2011).

107 Спортивный Регламент КХЛ сезоны 2011/2012; 2012/2013; 2013/2014 (Sports Rules of the Continental Ice-Hockey League for Seasons 2011/2012; 2012/2013; 2013/2014), available in Russian at http://www.khl.ru/documents/KHL_sports_regulations_2011-2014.pdf (accessed on 26 June 2011).

108 <http://www.lff.lv/dokumenti/FIFAttransf2005tulk.pdf> (accessed on 26 June 2011).

each next player – 1000 LVL (1422 EUR). Collected participation fees shall be spent for bonus payments to leading football trainers.¹⁰⁹

Basketball

Latvian Basketball Confederation has several documents containing detailed rules on transfer of players, registration and training compensation.

In order changing clubs after expiry of contract with previous club player must obtain letter of manumission plus old club and new club must reach mutual agreement on amount of compensation. In case both clubs could not reach agreement on amount of compensation it must be calculated according to the Regulations of Latvian Basketball Confederation on licensing and transfer.¹¹⁰

Amount of fees for registration and licensing of players are provided by seasonal Regulation on Licensing and Transfer of Players for Competitions organised by Latvian Basketball Confederation. Regulation for season 2010/2011 provides for following amount of fees: licensing fees for Latvian player is LVL 25 (EUR 31), but for first foreign player - LVL 400 (EUR 569), second LVL 500 (EUR 711), third – LVL 600 (EUR 853), fourth and following – LVL 800 (EUR 1138).¹¹¹

In 1st division Latvian Basketball League each club may use no more than three players who do not possess Latvian citizenship. If club wants to use more foreign players it could obtain additional quota license for a season which costs LVL 5000 (EUR 7114) for fourth foreign player, LVL 10 000 (EUR 14 228) for fifth foreign player and LVL 15 000 (EUR 21 343) for sixth foreign player.¹¹²

There is also one international league - SEB Baltic Basketball League where all three Baltic states participates. Rules of Baltic Basketball Elite Division explicitly provide that there is no restriction for registration of players on the grounds of nationality.¹¹³

Volleyball

Latvian Women's and Men's Volleyball Championship Rules do not limit number of foreign players. They require foreign players to possess transfer card issued in accordance with Regulations of International Volleyball Federation (FIVB).¹¹⁴ Rules require existence of transfer

109 Rules of Latvian Premiere League Football Championship for season 2011, available in Latvian on <http://www.lff.lv/lv/virsliga/dokumenti/> (accessed 26 June 2011).

110 Regulations of Latvian Basketball Confederation on licensing and transfer, http://i4.tiesraides.lv/files/2010-11/2010-11-25_dok3.pdf (accessed 26 June 2011).

111 Rules on transfer and licensing for season 2010/2011, available in Latvian on http://i2.tiesraides.lv/files/2010-11/2010-11-30_lic_not_2010.pdf, (accessed on 26 June 2011).

112 Rules on 1st division Latvian Basketball League for season 2010/2011, available in Latvian on http://i9.tiesraides.lv/files/2010-11/2010-11-30-lbl_nolikums_10_11-1291144876.pdf, (accessed on 26 June 2011).

113 Rules on Baltic Basketball League for season 2010/2011, available in English on <http://www.bbl.net/index.php/b19sYW5nPWVUJm9fbGVhZz04JmZ1c2VhY3Rpb249aG9tZS5icm93c2Umb19zZWFzPTI3> (accessed on 26 June 2011).

114 Rules of National Volleyball League for season 201/2011, available in Latvian at <http://www.volejbols.lv/nolikumi>. (accessed on 26 June 2011).

card provided by previous foreign club according to the Regulations of FIVB. Transfer fee for women for first to third season constitutes 1500 EUR, but for men – 3000 EUR. Reduction in amount of 30% from transfer fees is granted to the players of Latvian national team.¹¹⁵ Most likely Latvian Volleyball Federation does not regulate transfer and quotas for foreign players, because due to the size and economic development of Latvia there is no considerable business interest in volleyball.

There is also one international Volleyball league – *Schenker* Volleyball League open for Estonian and Latvian clubs. Rules of said league limit number of Latvian players at Estonian clubs. Allowed number is 3 Latvian players. There is no restriction for foreign players.

Transfer of players must be provided in accordance with FIVB. No rules on transfer or license fees are available.¹¹⁶

In all considerable fields of sport activities of Latvia (Ice-Hockey, Basketball, Football and Volleyball) where business interests appear rules and regulations of sport federations contain discriminatory restrictions with regard to foreign players (quotas, higher licensing and transfer fees) and measures (compensations between transferring clubs) which impede free movement of players (workers) with regard to all players irrespective of nationality.

Administrations national sports federations consider that quotas, higher licensing and transfer fees for foreign players are justified by considerations of protection of local sport development, which practically mean favouring to local sportsperson by giving them more opportunities. To the certain extent such considerations make a sense for small countries. Requirement for compensation between clubs is to be considered as justified for input made by previous club to the training and development of a sportsperson.

Latvia is comparably small country with economic in transition. Neither Latvian state nor private business persons invest much money into Latvian sport activities. Due to small size of population financial overturn in sports is low and it is not profitable business in Latvia.

3. THE MARITIME SECTOR

Article 272 of the Maritime Code¹¹⁷ provides that any person may serve as a captain or a crew-member on Latvian ships if he/she is certified to such work according to Latvian law and international agreements. Article 286 of the Maritime Code provides that employment relationship with a mariner is governed by the Labour law¹¹⁸ and other normative acts as far as particular issues are not regulated by the Maritime Code. The Maritime Code does not provides the right to equal treatment (non-discrimination) thus respective provisions on equal treatment and non-discrimination of Articles 7 and 29 of the Labour Law are applicable with regards to crews of ships. The non-discrimination principle provided by the Labour Law covers all aspects of employment including all conditions of employment and principle of

115 Rules on transfer allowing playing in foreign clubs, available in Latvian on <http://www.volejbols.lv/nolikumi/1666>, (accessed on 26 June 2011).

116 Rules of *Schenker* League for season 2010/2011, available in Latvian on <http://www.volejbols.lv/nolikumi>, (accessed on 26 June 2011).

117 OG. No.91, 18.06.2003. as amended until 2010 OG No.174, 3 November 2010.

118 OG No.105, 6 July 2001, as amended until 2011, OG No.62, 20 April 2011.

equal pay. Consequently if a person either a Union citizen or third country national is employed on a ship registered under Latvian flag he/she is protected against discrimination under Latvian law. There is no information available how such norms apply in practice, because almost all employment agreements in Latvia are confidential. There is also no information available on any national court proceedings on the breach of the principle of equality against sailor.

There are several bilateral international agreements in the maritime sector concluded with Russia, China, Ukraine and Turkey. They do not regulate any matters regarding employment conditions of persons employed on ships.

4. RESEARCHERS/ARTISTS

The right to work as a scientist in Latvia is not conditional on nationality. The only requirement is a possession of doctoral degree. This is provided by the Law on Scientific Activities.¹¹⁹ Article 3 of the law prohibits discrimination. Although nationality is not among the expressly provided non-discrimination grounds, nevertheless Article 3 provides a non-exhaustive list of non-discrimination grounds and protects against discrimination ‘in other circumstances’ too.

A doctoral degree obtained abroad is subject to recognition. Article 10(1) of the Law on Scientific Activities provides that a foreign doctoral degree has to be recognized in accordance with international agreements. According to Article 11¹ of the Education Law,¹²⁰ the institution providing expertise on recognition of academic education is the Academic Information Centre.¹²¹ This centre provides expertise on whether academic education obtained abroad corresponds to the requirements of the Latvian education system. In practice an expert assessment of a doctoral degree and taking of a decision on recognition takes two weeks.

Accordingly, if a Union citizen wishes to perform academic or scientific activities in Latvia, recognition of his/her diploma is necessary. There are no other requirements. For example, for permanent employment in an academic post at the University of Latvia only educational and professional requirements are applicable. Regulations on election for academic posts do not provide for any restriction regarding nationality.¹²² The only practical obstacle may be requirement on the knowledge of official language – Latvian, because only 20% of lectures may be provided in EU official languages.¹²³

There is no legislation in Latvia regulating activities of the artists.

119 OG No.70, 5 May 2005. as amended until 2010 OG No.205, 29 December 2010.

120 OG No.343/344, 17 November 1998., as amended until 2010 OG No.205, 29 December 2010.

121 Home page of Academic Information Centre, www.aic.lv

122 Home page of University of Latvia, www.lu.lv, <http://www.lu.lv/dokumenti/nolikums-akadamati.html> (accessed on 26 June 2011)

123 Article 56 of the Law on Institutions of Higher Education, OG No.179, 11 January 1995, as amended until 2010, OG No.206, 30 December 2010

5. ACCESS TO STUDY GRANTS

Point 3 of Regulation No.220 ‘Procedure for granting, returning and discharging study grants and student loans from a credit authority with State guarantees’¹²⁴ explicitly provides for a right to grants and loans on equal footing with Latvian citizens and non-citizens to the Union citizens only under condition they possess temporary or permanent residence permits. Requirement on the possession of the residency permit runs contrary to the Education Law¹²⁵ and the Law on Institutions of Higher Education¹²⁶ - the laws to which Regulation No.220 is subordinated to. Besides according to the Regulation No.220 study grants are available to the Union citizens only, not to their family members – third country nationals.

6. YOUNG WORKERS

National employment law does not provide for any other obstacles than generally applicable to young workers.¹²⁷ One obstacle under Latvian law regards statutory minimum pay. Currently statutory minimum pay in Latvia is defined by the Cabinet of Ministers Regulation No.1069 ‘Regulation on minimum monthly salary and minimum hourly rate’.¹²⁸ The statutory minimum monthly salary and minimum hourly rate is very low – LVL 200 (EUR 285) monthly or LVL 1,189 (EUR 1,69) hourly, but minimum hourly rate is higher for adolescents. It is LVL 1,36 (EUR 1,93). Such special regulation is due to the fact that on the basis of implementing measures of Directive 94/33 adolescents may be employed for no more than 7 hours daily and 35 hours weekly¹²⁹ while normal weekly working time in Latvia is 8 Hours daily and 40 hours weekly.

The practical obstacle is high unemployment rate in general and especially among low qualified workforce, what affect young workers particularly, because they usually do not have at their age special professional qualification.

One more obstacle concerns residence rights. The Regulations No.243 requires official accept¹³⁰ of both parents to obtain registration certificate or permanent registration certificate.¹³¹

In sports sector – Ice Hockey¹³² and Football¹³³ transfer fees are applicable also to young sportspersons.

124 OG No.303, 10 July 2001., as amended until 2010 OG No.29, 19.02.2010.

125 OG No.343/344, 17 November 1998., as amended until 2010 OG No.205, 29 December 2010.

126 OG No.179, 11 January 1995, as amended until 2010, OG No.206, 30 December 2010.

127 Persons under age 18 according to the Directive 94/33.

128 OG No.193, 7 December 2010.

129 Article 132(3) of the Labour Law, OG No.105, 6 July 2001, as amended until 2011, OG No.62, 20 April 2011.

130 If both parents are not present they must provide accept approved by sworn notary.

131 Points 29.3 and 35.3.

132 Rules on transfer of players of Latvian Ice-Hockey Federation, Available in Latvian on http://i9.tiesraides.lv/files/2011-06/2011-06-21_nolikums_par_speletaju_pareju.pdf (accessed on 26 June 2011).

133 <http://www.lff.lv/dokumenti/FIFAttransf2005tulk.pdf> (accessed on 26 June 2011).

Chapter VII: Application of transitional measures

1. TRANSITIONAL MEASURES IMPOSED ON EU-8 MEMBER STATES BY EU-15 MEMBER STATES AND SITUATION IN MALTA AND CYPRUS

There are no practical problems with regard to the transitional measures, because Latvia does not have any transitional measures concerning other EU Member States anymore. Germany was the last Member State which opened labour market for Latvia on 1 May 2011.

During first part of 2011 Latvian providers of foreign language courses informed that they do not have any more free places in German language study groups. It made politicians to worry that there may be another mass migration of Latvian citizens to Germany. However, so far such prognosis did not prove to be true.

2. TRANSITIONAL MEASURES IMPOSED ON WORKERS FROM BULGARIA AND ROMANIA

There have never been transitional measures imposed by Latvia on workers from Bulgaria and Romania.

Chapter VIII: Miscellaneous

1. RELATIONSHIP BETWEEN REGULATION 1408/71-883/04 AND ART 45 TFUE AND REGULATION 492/2011

According to the Regulation 1408/71 - 883/2004 special non-contributory benefits may be subject to the place of the residence. There are several non-contributory benefits payable under the Law on State Social Allowances¹³⁴ and Social assistance and social services law.¹³⁵ The said laws require residency in Latvia. The problems do not occur with regard to family benefits – child-care allowance, state family allowance, bonus to state family allowance for disabled child and allowance for disabled child-care. According to the information provided by the State Social Insurance Agency workers holding Latvian personal code (registration certificate) and frontier workers whose family members reside in another Member State are entitled to such allowances in Latvia.¹³⁶

2. RELATIONSHIP BETWEEN THE RULES OF DIRECTIVE 2004/38 AND REGULATION 492/2011 FOR FRONTIER WORKERS

Provisions of Directive 2004/38 and Regulation 492/2011 may lead to a situation where a frontier worker on the one hand is granted the right not to register his/her residency at Member State where he/she works (Directive 2004/38) but on the other hand such right may lead to unequal treatment under Regulation 492/2011 against frontier worker if for enjoyment of particular right there is a residency requirement.

3. EXISTING POLICIES, LEGISLATION AND PRACTICES OF A GENERAL NATURE THAT HAVE A CLEAR IMPACT ON FREE MOVEMENT OF EU WORKERS

3.1 Integration measures

There are no integration measures taken due to the low number of persons moving to Latvia from other Member States.

3.2 Immigration policies for third-country nationals and the Union preference principle

There is no any immigration policy adopted by the Government neither with regard to the third-country nationals nor to the Union citizens.

¹³⁴ OG No.168, 19 November 2002, as amended until 2010 OG No.47, 24.March 2010.

¹³⁵ OG No.168, 19 November 2002, as amended until 2010 OG No.170, 27 October 2010.

¹³⁶ Information available at website of the State Social Insurance Agency in Latvia on <http://www.vsaa.gov.lv/en/services> (accessed on 29 June 2011).

3.3 Return of nationals to new EU Member States

There are no reliable data on if and how many persons have returned to Latvia from old Member States. Though old Member States suffer from increase of unemployment unofficial data demonstrates that still higher number of Latvians go to old Member States than return to Latvia.

4. NATIONAL ORGANIZATIONS OR NON-JUDICIAL BODIES TO WHICH COMPLAINTS FOR VIOLATION OF COMMUNITY LAW CAN BE LAUNCHED

Institution which may launch complaints in connection with the breach of the EU law on free movement for workers is Ombudsman of the Republic of Latvia. Such complains may be reviewed by Ombudsman Office only if they concerns human rights, in particular, principle of non-discrimination.¹³⁷ Since greatest part of such complaints concern unequal treatment most of them are most likely to fall within the competence of the Ombudsman.

5. SEMINARS, REPORTS AND ARTICLES

Taking into account limited human and financial resources in Latvia there were no relevant events or publications detected on 2010-2011. There have been also no court rulings relating free movement of workers other than on problems with exportation of social benefits under Regulation 1408/71.

¹³⁷ The Ombudsman Law, OG No.65, 25 April 2006, as amended until 2010, OG No.189, 30 November 2010.